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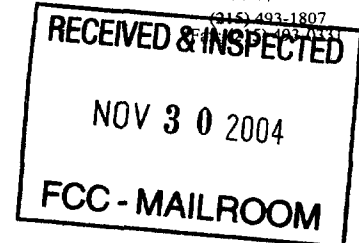
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November 29, 2004

**VIA FEDERAL EXPRESS**

Federal Communications Commission  
Office of the Secretary  
9300 East Hampton Drive  
Capitol Heights, MD 20743

RE: Micro Technology Groupe, Inc.'s Reply to RelComm's Opposition to  
Petition of Micro-Tech for Waiver of 47 C.F.R. § 54.721(d)  
CC Docket No. 02-6  
SLD Decision 1022916 and 11023492, Year Six E-Rate  
Billed entity #123420: Atlantic City Board of Education

Dear Sir/Madam:

Enclosed please find an original and four copies of Micro Technology Groupe, Inc.'s Reply  
To Relcomm's Opposition to Petition of Micro-Tech for Waiver of 47 C.F.R. § 54.721(d).

Thank you for your attention to this matter.

Respectfully submitted,

**ABRAHAMS, LOEWENSTEIN & BUSHMAN, P.C.**

BY:

Ralph J. Kelly

RJK/dg

Enclosures

cc: J. Philip Kirchner, Esquire  
Michael Blee, Esquire  
Gino Santori, Esquire  
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*Attorneys for Defendant, Micro Tech*

**BEFORE THE FEDERAL COMMUNICATIONS COMMISSION**

Schools and Libraries Universal Service	:	CC Docket No. 02-6
Mechanism	:	
	:	SLD Decision 1022916 and
	:	1023492
In the Matter of Request for Review by	:	
RelComm, Inc. of the Decision of the Universal	:	Billed Entity No. 123420
Administrator	:	Atlantic City Board of Education

**MICRO-TECHNOLOGY GROUPE, INC.'S REPLY TO RELCOMM'S  
OPPOSITION TO PETITION OF MICRO-TECH  
FOR WAIVER OF 47 C.F.R. § 54.721(d)**

**I. INTRODUCTION**

RelComm's Opposition to Micro Tech's Petition for Waiver of 47 C.F.R. § 54.721(d) and its Reply to MTG's Response to RelComm Inc.'s Request for Review seems to adopt the "I can't hear you" philosophy. It thinks that it just has to repeat the half-truths and misstatements contained in its earlier submissions, ignore the critical flaws that Micro Tech's Petition brought out and that by sheer repetition the Commission will accept their flawed arguments as true. The simple facts remain: MTG was never properly served with a copy of the Request for Review pursuant to statute; undersigned counsel was not authorized to accept service on behalf of MTG because undersigned counsel was not representing MTG in any legal capacity; there is no improper relationship between Micro Tech and Alemar; there was no secret walkthrough; and Micro Tech was not given any information that RelComm (or the other bidders) did not also have

access to. What remains is that good cause has been shown for Micro Tech's delayed filing and it was properly awarded the E-rate contract.

## II. GOOD CAUSE EXISTS FOR WAIVER OF 47 C.F.R. § 54.721(d)

Pursuant to 47 C.F.R. § 1.3, the FCC's rules may be waived upon a showing of good cause. Moreover, as the FCC has long recognized, "in cases where the public interest demands that the merits of a deficient petition be considered", it will consider a "late-filed petition to the extent that serious public interest questions are raised." In Re Application of Franklin D.R. McClure, et al., 5 F.C.C. 2d 148 (1966). See also In Re Applications of Radio Dispatch Corporation, 57 F.C.C. 2d 332 (1975).

In McClure, applicants operating a radio station sought to change frequency and increase power. Evidentiary hearings were held and the record was closed. Five months later, after the close of record, a petition to enlarge the evidentiary issues was filed and was, therefore, untimely. However, because it was before the initial decision was released the F.C.C. Board allowed the filing, reasoning that it would improve and expedite the FCC's disposition of the case and because public interest demanded that the merits of the deficient petition be considered. 5 F.C.C. 2d 148 at FN3.

In this matter, first, good cause exists. As noted in Micro Tech's Petition for Waiver "MTG was dropped from the state court action". It was no longer a party to the state court matter which, to this day, is still pending. Because all litigation against MTG was closed, it had no need of undersigned counsel, and was not represented by undersigned counsel, and never authorized undersigned counsel to accept service of any other legal documents. To this day, MTG has not been properly served with a copy of the Petition.

Be that as it may, public interest also demands the consideration of Micro Tech's response to RelComm's Petition for Review. The allegations of collusion and impropriety and fraud in the Atlantic City Board of Education's awarding of contracts, and its direct implication that Micro Tech has some sort of improper relationship with Alemar, is a matter of sufficient concern to warrant waiver of timely filing, especially given that the matter has not yet even been considered by the FCC.

III. MICRO-TECH'S OTHER CONTRACT AWARDS WERE PROPER  
AND THERE IS NO IMPROPER RELATIONSHIP WITH ALEMAR.

RelComm again repeats its claim that Micro-Tech has some sort of improper relationship with Alemar. Their sole basis is that Micro-Tech won contracts that Alemar was involved with. They point to no irregularity, collusion, bribe or any other irregularity. They argue that because Micro-Tech won the contracts (in truth, Micro-Tech won only parts of those contracts), there must be some irregularity. Despite the fact that RelComm has been involved in active litigation for several months, received thousands of pages of documents and deposed several witnesses, it can point to no illegality or irregularity in the award of (parts) of those contracts to Micro-Tech. It can point to no such irregularity because there is none. Instead of supplying facts, it now provides the bald conclusion that "MTG's relationship with Alemar violates E-rate program rules and FCC regulations." RelComm Opposition to Petition at p. 5. Not only does RelComm fail to supply any facts to support this allegation, it fails to cite to any E-rate rule or FCC regulation that was violated by Micro-Tech's winning of earlier contracts.

By RelComm's logic, the fact that Micro-Tech won earlier contracts that Alemar played some unspecified role in, disqualifies it from bidding. By such logic, other companies, such as

CompuWorld, Com-Tec, Nextel, etc. would all be precluded from bidding because they too won contracts that Alemar was involved with.

The whole truth is that there is no improper relationship between Micro Tech and Alemar, and the award of this contract to Micro Tech was totally proper.

IV. RELCOMM AND THE OTHER BIDDERS HAD THE SAME ACCESS TO MATERIALS THAT MICRO TECH HAD

RelComm again repeats its earlier claims without a scintilla of evidence and without addressing the fundamental flaws illustrated by Micro Tech's Response.

**The Walkthrough.** RelComm again claims that there was an earlier "secret walkthrough" of the AtlanticCity High School. RelComm Opposition to Petition at pp. 6-7. Micro Tech pointed out in its Petition that other bidders participated on the walkthrough and that RelComm was told about the earlier walkthrough as evidenced by RelComm's own exhibit attached to its Petition. See Exhibit B, RelComm Opposition to Petition.

RelComm never addresses the fact that before it submitted it was told about the walkthrough. Instead, it repeats its (inaccurate) representation that this walkthrough was "secret."

Next, RelComm goes to great lengths to point out that certain participants were later disqualified or are now performing subcontractor work for Micro Tech. The fact that a bidder who participated on the walk-through had its bid disqualified is a total non-sequitur. The fact remains: the first walkthrough was not secret, other bidders participated, and RelComm was told about the earlier walkthrough. It made no objection until after the fact when it was the unsuccessful bidder.

**The PVBX.** This is a total red-herring. Micro Tech included the PVBX because it always includes a PVBX. Again, RelComm has failed to show any connection between the inclusion of the PVBX, the award of the contract to Micro Tech, and any illegality or irregularity.

**Other Documents.** RelComm again ignores the obvious regarding Micro-Tech's receipt of RelComm's network diagram and district wiring documents. In its earlier Petition, Micro Tech showed that RelComm, itself, had possession of these documents so it could not claim that Micro Tech had some unfair advantage and RelComm fails to address how these documents gave Micro Tech any leg up on the other competitors. Both issues are critical flaws which RelComm continues to refuse to address. Moreover, RelComm glosses over the fact that it was the author of these documents. Having admitted to that fact, it cannot claim that Micro Tech had some sort of advantage over it. It does not even address what these documents show and how they were used in formulating Micro Tech's bid. It cannot elucidate these things because the simple truth is that these documents did not give Micro Tech any type of advantage in its bidding.

V. MICRO TECH'S BID IS THE BEST SOLUTION

Finally, RelComm claims that Micro Tech is defrauding the School District by the wiring proposal of its bid. RelComm claims that the bid calls for removal of all wiring even though RelComm contends that much of the existing wiring can be utilized. In its response, Micro Tech pointed out that the bid was a flexible per drop bid. RelComm attempts to refute this by claiming that the bid called for the entire replacement of all of the existing wiring and was not flexible. Again, RelComm resorts to twisting Micro Tech's bid to make its claim. RelComm claims that Micro Tech's bid was "quite clear that its proposed wiring was an all or nothing proposition." RelComm Opposition at p. 10. This is a distortion of Micro Tech's bid. Rather, Micro Tech

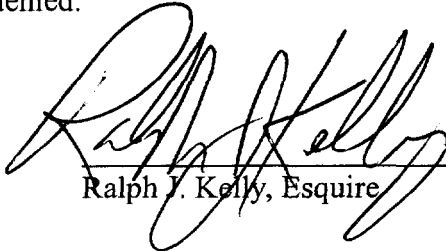
proposed that “We feel the wiring in many of the schools should be replaced.” (Emphasis added).

Thus, the bid provides for many schools, not the all or nothing that RelComm misconstrued.

Likewise, the bid did allow for flexibility : “There is a per drop price for a cable run which will allow you to make add/deletes to the number of runs that we propose.” In short, the bid was flexible.

VI. CONCLUSION

For the foregoing reasons, Micro Tech’s Petition for Waiver should be granted, its response to RelComm, Inc’s Petition for Review should be appropriately considered, and all relief requested by RelComm, Inc. should be denied.



Ralph J. Kelly, Esquire

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**BEFORE THE FEDERAL COMMUNICATIONS COMMISSION**

Schools and Libraries Universal Service	:	CC Docket No. 02-6
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In the Matter of Request for Review by	:	
RelComm, Inc. of the Decision of the Universal	:	Billed Entry No. 123420
Administrator	:	Atlantic City Board of Education

**PROOF OF SERVICE**

On November 29, 2004, I, the undersigned, personally served an original and four (4) copies of the within Micro Technology, Groupe, Inc.s Reply to Relcomm's Opposition to Petition of Micro Technology, Groupe, Inc.s, Waiver of 47 C.F.R. § 54.721(d) to the Office of the Secretary of the Federal Communications Commission, 9300 East Hampton Drive, Capitol Heights, MD 20743 via Federal Express Overnight Delivery.

I further certify that on November 29, 2004, I, the undersigned, personally served one copy of the within Micro Technology, Groupe, Inc.s, Reply to Relcomm's Opposition to Petition of Micro Technology, Groupe, Inc.s, Waiver of 47 C.F.R. § 54.721(d) upon the following individuals via First Class Mail:

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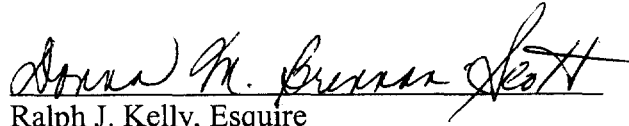
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I hereby certify that the foregoing statements made by me are true. I am aware that if any  
of the foregoing statements made by me are willfully false, I am subject to punishment.

**BY:**



Ralph J. Kelly, Esquire

Donna M. Brennan-Scott, Esquire

Dated: November 29, 2004